

## **SERIALIZATION: NADCP AND THE DRUG COURT MOVEMENT: A FIRST PERSON ACCOUNT, 1990-2001 (Judge Jeff Tauber ret.)**

### **EXCERPT NO. 10: THE MEANING OF ONE'S LEGACY**

<http://www.reentrycourtsolutions.com/2015/07/27/excerpt-10-where-do-drug-courts-go-from-here/>

*Sometimes life gives a person the opportunity to do something truly extraordinary. I saw an opportunity, took it; accepting the challenge, risking all, sacrificing much, to move the drug court field as far as possible.*



Reentry Court participants congratulate first Reentry Court graduation.

### **THE IMPORTANCE OF NADCP AND DRUG COURTS TO CRIMINAL JUSTICE REFORM**

Drug Courts (and their progeny Problem-Solving Courts) have had a profound effect upon the criminal justice system and the attitudes of those in it, as well as the media, and the public in general

I think it fair to suggest that the reform movements of the past decade, to decriminalize drug use, turn offenders away from prisons towards alternative sentencing, and emphasize reentry resources, all owe their success (at least in part) to the positive environment that drug courts have helped create over the past twenty five years.

There could be no better testimonial as to how far drug courts have come in changing the national dialogue than President Obama's special reference to "Drug Courts", in

his major criminal justice reform speech of July 14<sup>th</sup> 2015, "We should invest in alternatives to prison, like Drug Courts and treatment and probation."

NADCP itself, waxes eloquent when it talks about the progress it and the Drug Court Movement have made over the past twenty years (see: <http://www.nadcp.org/learn/about-nadcp>) "Today with 2,734 Drug Courts and another 1,122 problem-solving courts (mental health courts, community courts, reentry courts, DWI courts, etc.) in operation, NADCP has forever changed the face of the justice system. As the premiere national resource for Drug Court practitioners, NADCP established a specialized Institute in December 1997. Today, the "National Drug Court Institute" is the preeminent source for comprehensive training and cutting-edge technical assistance to the entire Drug Court Field. Since its inception, the institute has trained 36,641 drug court professionals in all 50 states and U.S. territories as well as seven countries and developed 37 publications, disseminating them to 456,166 professionals worldwide."

NADCP has admirers in the academic world as well; Professor Kathleen Hale of Auburn University in her book, "How Information Matters (Georgetown University Press, 2011) focuses entirely on NADCP, the "Champion" Non-Profit Organization in Washington D.C. Professor Hale describes the National Association of Drug Court Professionals (NADCP) as "the best among extraordinary organizations; whose structure, initiatives, strategies, and planning define excellence in the non-profit world."

## **A PERSONAL HISTORY OF A MOMENT IN TIME**

There are some things that need to be said upfront. There would be nothing to be done or accomplished, and no one to lead, without the involvement, engagement, heart, and energy of thousands of drug court practitioners, bureaucrats, criminal justice practitioners, political leaders, and others who embraced NADCP and drug policy change. I was fortunate to be in a place where I could access that energy and help focus it toward an all-encompassing National Drug Court strategy and agenda.

I understand there will be criticism of this "self-centric" work. My defense to criticism of this sort is that this is a personal history. I have not tried to talk about events that I was not personally aware of (and for the most part, personally present for). I have tried to stay away from events (such as the starting up of the Miami Drug Court) that I have heard or read about second or third-hand. I do not claim this to be the definitive history of the origins of the Drug Court movement, but my "personal history" of that

moment in time. It is for you to decide whether this “first person account” is credible and whether the book is worth the read.

## **THE REALITY OF NADCP AND THE DRUG COURT MOVEMENT**

In retrospect, no one at the time understood exactly what needed to be done. If one returns to the 1980's, it was for many of us in the criminal justice system, a black hole. As a defense attorney, commissioner, and then judge, I watched as drug dependent offenders were routinely sent to prison for a minimum of three years as drug offenders, when the true extent of their criminality was a serious drug dependence.

It was widely acknowledged and accepted as a scientific fact, that those dependent on drugs were doomed to a life of addiction, misery, and crime. At the time, that "truth" came at us from every direction (especially from the media) that “Nothing Works”. The typical drug offender was looking at a speedy judicial process and a long term in prison.

But there were new ideas coming to the fore. My coming of age began in 1990, when I was buttoned-holed by then Oakland Presiding Judge Horace Wheatley and placed, as a newly elected judge with zero seniority, in an existing “Reagan Era” Drug Court. It turned out to be an opportunity to make the changes necessary to reform a criminal production machine, to a treatment based and rehabilitation focused court. I was assisted and encouraged by people like Dr. Alex Stalcup of the San Francisco Haight Ashbury Clinic, Judge Peggy Hora, of the Hayward Municipal Court, and my co-chair of the Alameda County Criminal Justice Substance Abuse Sub-Committee, and Frank Tapia, an Oakland Probation Officer and co-designer of our Drug Court (a man with an inquisitive mind, obstinate nature, and background in Skinner Behavior Modification).

### **“TO BELIEVE IN THE HEROIC MAKES HEROES” Benjamin Disraeli**

I spent much of my youth glued to one of the first TV sets in Coney Island. My sense of morality derived from many sources, but perhaps none more important than the TV Western. One movie in particular had an impact, “High Noon”, a 1952 Western (and four time Academy Award winning motion picture). If I were to give a personal Drug Court award to someone who inspired me in my Drug Court work, it would be actor Gary Cooper, the indomitable lawman, facing overwhelming, almost insurmountable odds. The moral: sometimes you have the opportunity to rise above yourself, to reach heights that you might otherwise never achieve.

A brief interlude from my campaign for election for the Oakland Municipal Court Judgeship: I am in the Church of St. Paul in Oakland, CA. I had visited several churches that morning, to be briefly introduced by Assemblyman Elihu Harris' staffer as Elihu's choice for Judge. I remember arriving at the church in the evening. The Pastor, gave a lengthy sermon as to how I was going to do great things for the people as judge. It was embarrassing. I felt like I was deceiving the pastor and his congregation. My campaign literature promised reforms ("stop the jailhouse revolving door") but I had no clue as to how to achieve them.

It's been over twenty-five years since the good pastor's sermon and I still remember the power of his vision and the passion of his prose. And I wonder from time to time, if his passion inspired a spark within me. None of us knows what we are capable of in this life. Most will never have the chance to find out. But there are many capable of great things. This is then not a tribute to me, but to the heroic possibilities that lies within each of us.

There are those that will argue, that nothing happens unless and until the people have spoken. And my reply is that while that may be true, without a leader willing to take risks, and accept challenges and sacrifices, the people may never have that opportunity to speak. So this book then is an entreaty to look at my work as one man's reaching for the heroic. This is not the work of a hero, but of the child within the man, fulfilling a dream he thought he had left behind.

## **MY CONTINUING EDUCATION**

When I returned to the Bay Area in 2002, I thought about authoring a book about my experiences in the criminal justice system, but it was too big a project and I felt no compelling reason to do it. Nor did I hanker to put on the robe and return to the bench. I had the feeling that I had been there and done that. Somehow, I reasoned that my experience as a drug court pioneer and criminal justice reform leader would point me toward a career in Academia or perhaps the corporate world. Though I offered my services to the University at Berkeley and several other academic institutions, no one was quite sure what I would be teaching and why it would be relevant to the students of the day.

My friend David (Public School P.S. 209) who doubled as my accountant, brought me to my senses. He reminded me that I had no substantial assets and my pension when it came on line in 2009, would be fixed at 20% of the judicial salary due me at the time of my retirement (rather than the 75% figure for those that don't retire from the bench early).

I was faced with a return to the Bench or a severe change in lifestyle (something akin to homelessness). I chose to return to the bench. I met with the Director of the California AOC, Bill Vickrey, (who I knew well from our work on the CCJ/COSCA Resolution). He expressed enthusiasm about my becoming an Assigned Judge (sometimes known in other states as a “Senior Judge”; actually closer to being a substitute teacher, filling in for those who had retired, were sick, or on vacation).

I discovered that quite a few California judges were aware of my work with NADCP and Drug Courts and that there was some demand for my expertise. I have worked probably half time over the past 14 years in California’s Assigned Judges Program, in at least a dozen California counties and fifty individual courthouses. I estimate that I have spent at least three full judicial years sitting in 20 drug or problem-solving courts as an assigned judge (and have visited at least that many as an observer). I’ve been asked to consult with and give appraisals of many an existing or planned drug or problem-solving court and I believe my efforts and recommendations have been appreciated (if not always followed).

I enjoyed my return to the bench in new and unexpected ways. Because I was moving from court to court, and county to county, I began to develop a feel for what different communities sought in a judge and what justice meant in different communities. It turns out (not unexpectedly) that justice is geographic and cultural, and very much a reflection of each community’s values. I continued to explore the literature as well as search my own experiences for clues to how best to build community into the drug court and problem-solving court models. I became more and more certain that community was the key to successful rehabilitation, and hoped that I would have the chance to prove it.

## **A CHANGING OF THE GUARD AT NADCP**

Over time, I learned that things were not going well at NADCP. The new CEO was commuting from Gary, Indiana because of illness in her family, and often spent just a few days a week at the Alexandria office. I knew the organization would hold together in the short run but was fearful of the consequences if leadership in absentia continued.

In 2005, it was reported that the congressional committees responsible for funding drug courts had cut back funding to approximately \$10 million dollars (it was approximately \$40 million when I left NADCP in 2001). In 2006, NADCP's CEO decided that her family responsibilities required her presence in Gary, and she tendered her resignation. She was a generous, capable leader and an extremely bright person, but serious family issues prevented her from fully developing her obvious leadership skills at NADCP.



I anticipated West's ascension to CEO of NADCP. It was his turn. There didn't seem to be much I needed to do to promote his candidacy. But I spoke to a number of Board members confidentially and enlisted their support for West. A vote was taken by phone and West was elected CEO unanimously. A few minutes later I was on the phone with West, both of us elated that he would have the opportunity and the power to move NADCP's all important mission forward.

West hit the ground running. He increased his own personal commitment to NADCP and made similar demands of his staff. Dissatisfied staff fell away. He intended to take Drug Courts and NADCP to the next level and nothing was going to stand in his way.

### **“PRESIDENT EMERITUS FOR LIFE”**

In May, 2008, NADCP's Board bestowed upon me the singular title, “President Emeritus of NADCP for Life”; the plaque presented to me at the 14<sup>th</sup> Annual National Conference in St. Louis, read, “For Creating the Spark That Revolutionized the Justice System”

...And perhaps provided a model for young and not-so-young reformers caught in all too conventional, monolithic institutions.



NADCP Founder Judge Jeffrey Tauber, then San Francisco Reentry Court Judge, playing Latin Jazz with his band at San Francisco Parole Reentry Court Barbecue in 2010, Golden Gate Park.

## **BUILDING A COMMUNITY-BASED REENTRY COURT IN SAN FRANCISCO**

I sat on the San Francisco Superior Court for approximately four years (2007 to 2011). I tried criminal cases and assisted the court in evaluating and improving its plethora of Problem-Solving Courts. A grant became available to work with high-risk parolees exiting California prisons, monitored by the Superior Court with the assistance of the Parole Department. It was an exciting opportunity to finally bring together concepts and tools I had researched, observed and applied throughout my Drug Court career. I spoke to the Presiding Judge at the time, Jim McBride, and incoming PJ Katherine Feinstein, and they agreed to let me build my Reentry Court.

The San Francisco Parole Reentry Court (SFPRC) was a statutorily funded pilot project administered by both the California Administrative Office of the Courts (AOC) and the California Department of Corrections and Rehabilitation (CDCR). The funding itself, some \$1.5 million per county was provided by the federal government through 2009 Stimulus funding. At the time, California had a return to prison rate of approximately 70%. It appeared to me that a reentry court, using the drug court as a model could do much better. I intended to build a Reentry Court from the ground up. It was a chance that I believed would not come again.

CDCR data for the 10-month period that SFPRC was fully operational (Dec. 2010-Sept. 2011) established that the SFPRC “return to prison” rate was 1/7th the rate of regular San Francisco parolees (a reduction of over 85% over 10 months).

## **THE IMPORTANCE OF COMMUNITY IN A REENTRY COURT**

I handpicked a dedicated group of treatment professionals to staff SFPRC, led by a Reentry Court Coordinator, Allison West. Allison had an enormous regard and affection for prison inmates returning to the community (interestingly, she was engaged to a San Quentin Prison Sergeant at the time). Allison turned out to be an inspiration to the entire team, and distinguished herself as someone who would go the extra mile for her clients (our parolees). I had never been a part of a team that worked as well together, or with participants who were so eager to be successful in their rehabilitation, or who supported one another in their striving to succeed.

It's important to understand how the SFPRC team and participants created a rehabilitation community that became the driving force for participant change. The

court team encouraged and often joined participants in pro-social activities, treating participants as individuals worthy of respect. The court became a friendlier place; where strangers became friends and sometimes mentors, coffee and pastries were served, rehab sessions and counseling, honor roll meetings and award ceremonies, and other pro-social activities occurred.

We tried almost anything and everything that seemed to make sense for our court's rehabilitative community. And almost all of it worked. Everything from reading poetry, to Christmas parties, barbecues with live Latin music, pizza lunches for those on the honor roll, a newsletter, and moments of silence for those going back to Prison.

The corollary principle employed was that positive reinforcement and minimal sanctions, rather than custody would be used to modify negative behaviors. The SFPRC embraced a true paradigm shift, pioneering the use of positive reinforcement in reentry courts; using awards, rewards, and positive, and negative incentives to recognize accomplishments.

A tangible example: The courtroom bulletin board displayed the SFPRC Newsletter, awards and certificates, letters and poetry, photos of graduation and awards ceremonies, family and friends, court picnics, and newly inducted Honor Roll members.

Over its 15-month life (including planning and implementation), SFPRC modeled what I described in an online article as “[a minimalist reentry court for recessionary times](#)”. Though problem-solving courts” and reentry courts in particular are often accused of being over resourced, this court was not. It was built from the ground up to minimize duplication and waste, even though it was a relatively resource rich federally funded program, dealing with high-risk, serious and violent offenders. SFPRC limited itself to basically part-time staff, including the judge, court coordinator, 2 case managers, a defense attorney, parole officer and clerk.

[For a one page summary of the San Francisco Parole Reentry court’s mission, design, and statistical results, see: [Final 1-Year SFPRC Report Card](#).]

## **SAN FRANCISCO CLOSES DOWN SFPRC**

The New York Times published an article on Sunday, October 8, 2011, on the closing of the highly successful San Francisco Parole Reentry Court. (See: “[Parole and Probation Courts in San Francisco are Closing After Budget Cuts](#)”.)

Online, I wrote: "The SFPRC enjoyed the full support of the San Francisco court until this past summer, when drastic reductions in state funding caused many California



Courts to reassess their ability to provide rehabilitation services. San Francisco was one of the worst hit, with over 6 million dollars of debt and prospects of closing down 25 of 63 courtrooms countywide."

More importantly, Court personnel and program staff learned to treat participants as equals and the results were extraordinary. I was given two days' notice that the court would be closed. I managed to get a film crew to record the court proceedings on the next to last day of the program (see online at [COMMUNITY-BASED REENTRY COURTS](#)). The SFPRC's closing was painful. It had been the highpoint of my judicial career. I felt that it would be my last opportunity to demonstrate that community-based courts could be extraordinarily successful. And now my final project, acknowledged throughout the Greater San Francisco Criminal Justice Community as being phenomenally successful, would end before the final data was in, and become at best a footnote to history.

### **MY RETIREMENT FROM ACTIVE PARTICIPATION IN NADCP**

I remained a Board Member and NADCP Educator. I was actively organizing Reentry Court Workshops and teaching Reentry Court skills each year at the National Conference and other trainings. I believed in the importance of NADCP's leadership in developing Prison and Parole Reentry Courts and Court-based Reentry Programs across the nation.

In furtherance of that goal, I established my own website devoted to Reentry Courts and other Community-Based Court Systems, called [ReentryCourtSolutions.com](#). I wrote articles and essays on a weekly basis and sought to create interest in court-based prisoner reentry through the website. I have maintained that website over five years at considerable personal expense (see: <http://www.reentrycourtsolutions.com>)

In 2013, I decided that twenty years as Founding President, Board Member, and Educator at NADCP was sufficient. With the 20<sup>th</sup> Anniversary of NADCP and the 25<sup>th</sup> Anniversary of Drug Court looming in 2014, I announced my intention to formally retire on my 20<sup>th</sup> Anniversary at NADCP, and my 20<sup>th</sup> consecutive NADCP Conference, in Anaheim CA, 2014. Which I did.

West left NADCP in 2015, for a job in the private sector. I appreciate West's remarkable success as CEO, and salute him for all he did to build upon the initial success of NADCP. He had accomplished much. But then again, I had sacrificed much to move him to his leadership position; mentoring him at every step up the executive ladder, placing him in a position so that he could one day lead NADCP, and helping him win the Board's approval. I believed I was right to do so then and still believe that to be true.

## MY LEGACY

While I have been a capable judge, being a pioneering drug court judge, a founder and leader of NADCP and the drug court movement, (and ultimately a Reentry Court Judge) came more easily to me. Much of the time, I felt like a fish swimming downstream. Without prior experience, I found myself lobbying Congress, writing legislation, speaking at the White House and before dignitaries at home and abroad, leading focus groups and trainings, writing an almost constant stream of manuals, monographs, articles and newsletters, planning and presiding over NADCP Conferences, and creating educational curriculum and training methodologies.

I understood on a visceral level what needed to be done and when; from relying on an “up from the bottom grassroots approach in building a national organization, to the creation of a web of interlacing mentor court sites nationally, from the development of a respected National Drug Court Institute, to the creation of an Annual NADCP Conference and an all-embracing Congress of State Drug Court Associations; all coming together as the foundation of a national drug court reform movement.

And this I hope may be my legacy; that when my time came, I understood what needed to be done and did it, ultimately moving the criminal justice system a bit, just far enough, so all could see the drug dependent offender as worthy of returning to the community, not as a pariah, but as respected member of their community.

***"The establishment of drug courts, coupled with [their] judicial leadership, constitutes one of the most monumental changes in social justice in this country since World War II."***

Drug Czar, Four Star General Barry McCaffrey (Ret.), Director of the Office of National Drug Control Policy; May 15, 1997

Judge Jeffrey Tauber (Ret.)